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*Attorneys for GlaxoSmithKline
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(additional counsel on signature page)

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

Plaintiffs,

VS.

Johnson & Johnson Consumer Companies, Inc., a New Jersey corporation; GlaxoSmithKline LLC, a Delaware corporation; Reckitt Benckiser LLC, a Delaware corporation; Bayer Healthcare LLC, a Delaware limited liability corporation; Sanofi- Aventis U.S. LLC, a Delaware limited liability corporation; The Procter & Gamble Company, an Ohio corporation; Church & Dwight Co., Inc., a Delaware corporation; Walmart Inc., a Delaware corporation; Target Corporation, a Minnesota corporation; CVS Pharmacy, Inc., a Delaware corporation; Walgreen Co., an Illinois corporation; Albertsons Companies Inc., a Delaware corporation; Rite Aid Corporation, a Delaware corporation; Amazon.com, Inc., a Delaware corporation; and DOES 1-20.

Case No. 2:23-cv-01965-AC

STIPULATION AND [PROPOSED] ORDER TO SUBSTITUTE PARTY NAME, AMEND CAPTION, AND TO ENLARGE TIME FOR RESPONSIVE PLEADINGS PENDING MDL DETERMINATION

Judge: Hon. Allison Claire
Courtroom: 26

Defendants

**STIPULATION AND [PROPOSED] ORDER TO SUBSTITUTE PARTY NAME, AMEND
CAPTION, AND TO ENLARGE TIME FOR RESPONSIVE PLEADINGS PENDING MDL
DETERMINATION**

WHEREAS, Plaintiffs Kenneth Levi Pack and Min Ji Jung (“Plaintiffs”) filed the above-captioned action against Defendants Johnson & Johnson Consumer Companies, Inc., GlaxoSmithKline LLC, Reckitt Benckiser LLC, Bayer Healthcare LLC, Sanofi- Aventis U.S. LLC, The Procter & Gamble Company, Church & Dwight Co., Inc., Walmart Inc., Target Corporation, CVS Pharmacy, Inc., Walgreen Co., Albertsons Companies Inc., Rite Aid Corporation, Amazon.com, Inc., and Does 1-20 (“Defendants”) on September 12, 2023 (the “Complaint”),

WHEREAS, GlaxoSmithKline LLC was incorrectly named as a defendant in this action;

WHEREAS, GlaxoSmithKline Consumer Healthcare Holdings (US) LLC now d/b/a Haleon (“GSK Consumer Healthcare”) is the proper defendant regarding certain products alleged in the Complaint;

WHEREAS, Johnson & Johnson Consumer Companies, Inc was incorrectly named as a defendant in this action;

WHEREAS, Johnson & Johnson Consumer Inc. is the proper defendant regarding certain products alleged in the Complaint;

WHEREAS, Reckitt Benckiser LLC was incorrectly named as a defendant in this action;

WHEREAS, RB Health (US) LLC is the proper defendant regarding certain products alleged in the Complaint;

WHEREAS, a petition has been filed before the Judicial Panel on Multidistrict Litigation (the “JPML”) to consolidate this case with other civil actions now pending inside and outside of this District into a single multidistrict litigation (the “MDL Petition”);

WHEREAS, the MDL Petition has identified at least thirteen actions it seeks to consolidate in MDL No. 3089, and at least twenty-seven additional actions are pending across the country that may also be deemed related actions (together with any other actions that are the subject of the MDL Petition, the “Related Actions”);

WHEREAS, the MDL Petition has been docketed before the JPML as *In re: Oral Phenylephrine Litigation*, MDL No. 3089, responses to the MDL Petition are due on or before October 11, 2023, with a reply due on or before October 18, 2023;

WHEREAS, this Court has the inherent power to grant a stay, or to enlarge deadlines, especially in circumstances such as here, where doing so would promote judicial economy and avoid prejudice to the parties, *see, e.g.*, *Landis v. North Am. Co.*, 299 U.S. 248, 254 (1936); *Sprint Commc 'ns Co. L.P. v. Pac. Bell Tel. Co.*, 2014 WL 7239474, at *2 (E.D. Cal. Dec. 16, 2014) (staying action pending JPML decision); *JBR, Inc. v. Keurig Green Mountain, Inc.*, 2014 WL 1767701, at *3 (E.D. Cal. May 2, 2014) (same);

WHEREAS, absent relief from currently pending deadlines, the Court and the parties would face responsive pleading deadlines and, in light of the possibility that there will be an MDL consolidating the Related Actions for the purpose of pretrial proceedings, an extension of those deadlines is prudent to avoid duplication of pretrial efforts by the parties, any waste of judicial resources, and the risk of conflicting rulings;

WHEREAS the parties have met and conferred and agree that responsive pleading deadlines should be stayed pending resolution of the MDL Petition;

**THEREFORE, THE PARTIES HEREBY STIPULATE, AGREE AND
RESPECTFULLY REQUEST THAT:**

1. Defendant “GlaxoSmithKline LLC” is dismissed without prejudice and will be replaced by defendant “GlaxoSmithKline Consumer Healthcare Holdings (US) LLC” and the caption in this action shall be amended to reflect that substitution;
2. Defendant “Johnson & Johnson Consumer Companies, Inc.” is dismissed without prejudice and will be replaced by defendant “Johnson & Johnson Consumer Inc.” and the caption in this action shall be amended to reflect that substitution;
3. Defendant “Reckitt Benckiser LLC” is dismissed without prejudice and will be replaced by defendant “RB Health (US) LLC” and the caption in this action shall be amended to reflect that substitution;
4. This Court stays any served Defendant’s deadline to answer, move, or otherwise plead in response to the Complaint, or any subsequently filed amended complaint, until further order of this Court or any Court to which the JPML assigns the Related Actions;

1 5. Because this case has been submitted to the JPML as a related case, the Court will receive
2 notice from the JPML if an MDL is formed. If the JPML denies the motion to form an MDL,
3 the Parties will meet and confer within 14 days of the JPML's ruling and prepare a joint status
4 report for the Court;

5 6. The parties' entry into this stipulation does not constitute a waiver of any jurisdictional
6 defenses that may be available under Rule 12 of the Federal Rules of Civil Procedure, including
7 personal jurisdiction, a waiver of any defenses under Rule 8 of the Federal Rules of Civil
8 Procedure, or a waiver of any other statutory or common law defenses that may be available
9 to any Defendant in this action, the Related Actions, or both. Defendants expressly reserve
10 their rights to raise any such defenses in response to any operative or amended complaint that
11 may be filed relating to this action.

12 7. The parties' entry into this stipulation does not prevent Plaintiffs from further amending their
13 complaint, if they deem it necessary to do so.

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1 DATED: October 2, 2023

Respectfully submitted,

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10 DATED: October 2, 2023

Respectfully submitted,

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32 *Attorneys for Defendant Albertsons
33 Companies Inc,*

34 **IT IS SO ORDERED.**

35 DATED: October 3, 2023

36 
37 ALLISON CLAIRE
38 UNITED STATES MAGISTRATE JUDGE